

The House Committee on Regulated Industries offers the following substitute to HB 516:

A BILL TO BE ENTITLED
AN ACT

To amend Title 3 of the Official Code of Georgia Annotated, relating to alcoholic beverages, so as to provide a definition of the term "flavored malt beverage"; to change certain provisions relating to the maintenance of records of alcoholic beverages manufactured, purchased, or sold; to change certain provisions relating to tax payment and reporting by licensees; to provide a date by which taxes must be paid for distilled spirits by the package sold or disposed of by wholesale dealers; to declare certain distilled spirits to be contraband; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 3 of the Official Code of Georgia Annotated, relating to alcoholic beverages, is amended in Code Section 3-1-2, relating to definitions concerning alcoholic beverages, by adding a new paragraph to read as follows:

"(8.1) 'Flavored malt beverage' means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination of such products, in water containing not more than 6 percent alcohol by volume to which other flavors and nonbeverage alcohol ingredients are added so long as no more than 49 percent of the overall alcohol content of the alcoholic beverage is derived from the addition of flavors and nonbeverage alcohol ingredients. A flavored malt beverage shall be deemed a malt beverage for purposes of this title. Alcoholic beverages otherwise meeting the definition of 'flavored malt beverage' but containing more than 6 percent alcohol by volume or in which more than 49 percent of the overall alcohol content is derived from the addition of flavors and nonbeverage alcohol ingredients shall be deemed distilled spirits for purposes of this title."

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SECTION 2.

Said title is further amended in Code Section 3-3-6, relating to the maintenance of records by manufacturers, importers, or dealers, by revising subsection (a) as follows:

"3-3-6.

(a) Each manufacturer, importer, wholesale dealer, retail dealer, and retail consumption dealer shall keep and preserve, as prescribed by the commissioner, records of all alcoholic beverages manufactured, purchased, or sold ~~by him~~. The original records or a complete and legible photocopy or electronic image shall be kept on the licensed premises for a period of three years from the date of manufacture, purchase, or sale and shall at all times be ~~open to inspection~~ available for inspection by the commissioner or any authorized agent or employee of the commissioner."

SECTION 3.

Said title is further amended by revising Code Section 3-4-61, relating to tax payment and reporting, as follows:

"3-4-61.

(a) Except as may otherwise be authorized in this title, the state excise taxes imposed by this part shall be paid by the licensed wholesale dealer in distilled spirits.

~~(b) The taxes shall be paid on or before the tenth day of the month following the calendar month in which the beverages are sold or disposed of within the particular municipality or county by the wholesale dealer.~~

~~(c)~~(b) Each licensee responsible for the payment of the excise tax shall file a report itemizing for the preceding calendar month, by size and type of container, the exact quantities of distilled spirits sold during the month within the state. The licensee shall file the report with the commissioner.

~~(d)~~(c) The wholesaler shall remit to the commissioner the tax imposed by the state on the ~~tenth~~ fifteenth day of the month following the calendar month in which ~~the sales were made~~ alcoholic beverages were disposed or sold.

~~(e) In order to phase in the reporting system of excise tax payment for distilled spirits and alcohol:~~

~~(1) The commissioner shall direct that no later than January 31, 1993, all persons who made excise tax payments in respect of distilled spirits and alcohol sales in the State of Georgia during the calendar year 1992 shall make a one-time deposit equal to the amount of 25 percent of said tax payments. This one-time advance shall be repaid in full by the state in equal semiannual installments over the period of 24 months following August 1, 1993; except that, in the event wholesalers made payments as provided for in this~~

1 paragraph, the commissioner shall repay such wholesalers in the form of semiannual
2 credits against future tax liability;

3 ~~(2) On February 1, 1993, or as soon thereafter as practicable, the commissioner shall~~
4 ~~direct that an inventory be taken of stamped merchandise and tax stamps held by~~
5 ~~manufacturers, shippers, and wholesalers. The commissioner shall issue refunds to all~~
6 ~~manufacturers and shippers for the value of tax stamps in their possession on February~~
7 ~~1, 1993, to be paid in 12 equal installments beginning on August 1, 1993. The~~
8 ~~commissioner shall issue tax credits to wholesalers for stamps in inventory on February~~
9 ~~1, 1993, which shall be applied as credits against the wholesaler's future tax liability for~~
10 ~~the 12 month period beginning with the report due on August 10, 1993;~~

11 ~~(3) Nothing in this subsection shall be construed to impose an additional excise tax on~~
12 ~~distilled spirits and alcohol held in inventory by wholesalers and retailers above the~~
13 ~~excise tax paid prior to February 1, 1993; and~~

14 ~~(4) The commissioner shall adopt rules and regulations for the implementation of a~~
15 ~~reporting method of paying distilled spirits and alcohol excise taxes as well as the~~
16 ~~elimination of the use of any type of distilled spirits and alcohol stamp. The~~
17 ~~commissioner shall have full authority to allow credits or make refunds as provided for~~
18 ~~in this subsection.~~

19 (d) The commissioner shall adopt rules and regulations for the implementation of a
20 reporting method of paying distilled spirits and alcohol excise taxes."

21 SECTION 4.

22 Said title is further amended in Code Section 3-4-80, relating to the authorization of the levy
23 of tax on sale of distilled spirits by the package, by adding a new subsection to read as
24 follows:

25 "(a.1) The tax authorized by subsection (a) of this Code section shall be paid on or before
26 the tenth day of the month following the calendar month in which the beverages are sold
27 or disposed of within the particular municipality or county by the wholesale dealer."

28 SECTION 5.

29 Said title is further amended in Code Section 3-4-111, relating to the sale by wholesalers to
30 licensees and the purchase by licensees from wholesalers, as follows:

31 "3-4-111.

32 (a) Those persons who are duly licensed as wholesalers of distilled spirits under this title
33 may sell distilled spirits at wholesale prices to any person or persons licensed as provided
34 in this article. Persons licensed under this article may purchase distilled spirits from a
35 licensed wholesaler at wholesale prices.

1 (b) Any distilled spirits possessed, sold, or offered for sale by a retail dealer or retail
2 consumption dealer which were purchased or otherwise acquired from any person other
3 than a wholesale dealer authorized to do business under this chapter is declared to be
4 contraband and shall be seized and disposed of by the commissioner in the manner
5 provided in this title."

6 **SECTION 6.**

7 This Act shall become effective upon its approval by the Governor or upon its becoming law
8 without such approval.

9 **SECTION 7.**

10 All laws and parts of laws in conflict with this Act are repealed.